

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MILIND DESAI, *etc.*

Plaintiff

v.

GEICO CASUALTY CO.

Defendant

Case No. 19-cv-02327

Judge Solomon Oliver, Jr.

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff Milind Desai submits the following decision as supplemental authority relevant to Defendant Geico's pending Motion to Dismiss ("Geico's MTD") [ECF No. 12]:

- *Signor, Gina v. Safeco Insurance Company of Illinois*, S.D. Fla. No. 0:19-cv-61937-WPD, Doc. 40, March 23, 2020 Opinion and Order on Defendant's Motion to Dismiss Plaintiffs' Complaint (Dimitrouleas, J.) is attached as **Exhibit A**

The *Safeco* decision is relevant to Geico's MTD for *three* reasons:

1. *Safeco* held the plaintiff was not attempting to use an optional provision of the insurance code to contravene explicit provisions of an insurance policy and thus the plaintiff alleged sufficient facts to state a claim for relief for breach of its use of CCC under the policy as interpreted to comply with the Florida Statute. *Cf.* Ex. A, *Safeco* Opinion at 10-13 *with* Geico's MTD at p. 11-17.

2. In addition, the *Safeco* court held under Florida law and the Federal Declaratory Judgment Act, the plaintiff had standing to pursue her claims for declaratory relief because although the statute at issue did not afford a private right of action, the plaintiff was able to bring

an action under the statute because the statutory provisions were incorporated into the insurance contract. *Cf.* Ex. A, *Safeco* Opinion at 4-9 *with* Geico's MTD at p. 4.

3. The *Safeco* court further held it was plausible "dealer fees" would be included in the 'actual cash value' under the contract as amended to conform to Florida law. *Cf.* Ex. A, *Safeco* Opinion at 14-15 *with* Geico's MTD at p. 18.

DATED: March 31, 2020

Respectfully submitted,

s/ Drew Legando

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CERTIFICATE OF SERVICE

This document was served on counsel of record by the Court's ECF System on Tuesday,
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